

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2060

AN ACT

AMENDING SECTION 38-775, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-775, Arizona Revised Statutes, is amended to
3 read:

4 38-775. Required distributions; definitions

5 A. This section applies for purposes of determining required minimum
6 distributions for calendar years beginning on and after January 1, 2006. In
7 applying the requirements of this section, the following operational
8 provisions govern:

9 1. Except as provided in the following sentence, the requirements of
10 this section take precedence over any inconsistent provisions of this
11 article. The rules of this section shall not restrict any form, calculation,
12 adjustment or payment of benefit provided under this article in effect on
13 April 17, 2002, if the form, calculation, adjustment or payment of benefit
14 satisfied section 401(a)(9) of the internal revenue code based on a
15 reasonable and good faith interpretation of that section.

16 2. All distributions required under this section shall be determined
17 and made pursuant to section 401(a)(9) of the internal revenue code and the
18 regulations that are issued under that section by the United States secretary
19 of the treasury.

20 3. Notwithstanding this section, other than paragraph 2 of this
21 subsection, distributions may be made under a designation made before
22 January 1, 1984, pursuant to section 242(b)(2) of the tax equity and fiscal
23 responsibility act of 1982 (P.L. 97-248) and the provisions of this article
24 that relate to that section.

25 B. The member's entire interest shall be distributed, or begin to be
26 distributed, to the member no later than the member's required beginning
27 date.

28 C. If the member dies before distributions begin, the member's entire
29 interest shall be distributed, or begin to be distributed, no later than as
30 follows:

31 1. If the member's surviving spouse is the member's sole designated
32 beneficiary, except as provided in paragraph 6 of this subsection,
33 distributions to the surviving spouse shall begin by December 31 of the
34 calendar year immediately following the calendar year in which the member
35 died, or by December 31 of the calendar year in which the member would have
36 attained seventy and one-half years of age, if later.

37 2. If the member's surviving spouse is not the member's sole
38 designated beneficiary, except as provided in paragraph 6 of this subsection,
39 distributions to the designated beneficiary shall begin by December 31 of the
40 calendar year immediately following the calendar year in which the member
41 died.

42 3. If there is no designated beneficiary as of September 30 of the
43 year following the year of the member's death, the member's entire interest
44 shall be distributed by December 31 of the calendar year containing the fifth
45 anniversary of the member's death.

1 4. If the member's surviving spouse is the member's sole designated
2 beneficiary and the surviving spouse dies after the member but before
3 distributions to the surviving spouse begin, this subsection, other than
4 paragraph 1 of this subsection, applies as if the surviving spouse were the
5 member.

6 5. For purposes of this subsection and subsection G, distributions are
7 considered to begin on the member's required beginning date or, if paragraph
8 4 of this subsection applies, the date distributions are required to begin to
9 the surviving spouse under paragraph 1 of this subsection. If annuity
10 payments irrevocably commence to the member before the member's required
11 beginning date, or to the member's surviving spouse before the date
12 distributions are required to begin to the surviving spouse under paragraph 1
13 of this subsection, the date distributions are considered to begin is the
14 date distributions actually commence.

15 6. If the member dies before distributions begin and there is a
16 designated beneficiary, distribution to the designated beneficiary is not
17 required to begin by the date prescribed in paragraph 1 or 2 of this
18 subsection as long as the member's entire interest will be distributed to the
19 designated beneficiary by December 31 of the calendar year containing the
20 fifth anniversary of the member's death. If the member's surviving spouse is
21 the member's sole designated beneficiary and the surviving spouse dies after
22 the member but before distributions to either the member or the surviving
23 spouse begin, this paragraph applies as if the surviving spouse were the
24 member.

25 D. Unless the member's interest is distributed in the form of an
26 annuity purchased from an insurance company or in a single sum on or before
27 the required beginning date, as of the first distribution, calendar year
28 distributions shall be made pursuant to subsections E, F and G. If the
29 member's interest is distributed in the form of an annuity purchased from an
30 insurance company, distributions shall be made pursuant to the requirements
31 of section 401(a)(9) of the internal revenue code and the regulations that
32 are issued under that section by the United States secretary of the treasury.
33 Any part of the member's interest that is in the form of an individual
34 account described in section 414(k) of the internal revenue code shall be
35 distributed in a manner satisfying the requirements of section 401(a)(9) of
36 the internal revenue code and the regulations that are issued under that
37 section by the United States secretary of the treasury that apply to
38 individual accounts.

39 E. The following provisions govern the determination of the amount to
40 be distributed each calendar year:

41 1. If the member's interest is paid in the form of annuity
42 distributions, payments under the annuity shall satisfy the following
43 requirements:

44 (a) The annuity distributions shall be paid in periodic payments made
45 at intervals not longer than one year.

1 (b) The distribution period shall be over a life or lives or over a
2 period certain not longer than the period described in subsection F or G.

3 (c) Once payments have begun over a period certain, the period certain
4 shall not be changed even if the period certain is shorter than the maximum
5 permitted.

6 (d) Payments shall either be nonincreasing or increase only as
7 follows:

8 (i) By an annual percentage increase that does not exceed the annual
9 percentage increase in a cost-of-living index that is based on prices of all
10 items and issued by the bureau of labor statistics.

11 (ii) To the extent of the reduction in the amount of the member's
12 payments to provide for a survivor benefit on death, but only if the
13 beneficiary whose life was being used to determine the distribution period
14 described in subsection F dies or is no longer the member's beneficiary
15 pursuant to a qualified domestic relations order within the meaning of
16 section 414(p) of the internal revenue code.

17 (iii) To provide cash refunds of employee contributions on the
18 member's death.

19 (iv) To pay increased benefits that result from a plan amendment.

20 2. The amount that must be distributed on or before the member's
21 required beginning date or, if the member dies before distributions begin,
22 the date distributions are required to begin under subsection C, paragraph 1
23 or 2, is the payment that is required for one payment interval. The second
24 payment need not be made until the end of the next payment interval even if
25 that payment interval ends in the next calendar year. Payment intervals are
26 the periods for which payments are received, such as bimonthly, monthly,
27 semiannually or annually. All of the member's benefit accruals as of the
28 last day of the first distribution calendar year shall be included in the
29 calculation of the amount of the annuity payments for payment intervals
30 ending on or after the member's required beginning date.

31 3. Any additional benefits accruing to the member in a calendar year
32 after the first distribution calendar year shall be distributed beginning
33 with the first payment interval ending in the calendar year immediately
34 following the calendar year in which the amount accrues.

35 F. The following provisions govern annuity distributions that commence
36 during a member's lifetime:

37 1. If the member's interest is being distributed in the form of a
38 joint and survivor annuity for the joint lives of the member and a nonspouse
39 beneficiary, annuity payments to be made on or after the member's required
40 beginning date to the designated beneficiary after the member's death must
41 not at any time exceed the applicable percentage of the annuity payment for
42 the period that would have been payable to the member using the table set
43 forth in question and answer number 2 of section 1.401(a)(9)-6 of the
44 regulations issued by the United States secretary of the treasury. If the
45 form of distribution combines a joint and survivor annuity for the joint

1 lives of the member and a nonspouse beneficiary and a period certain annuity,
2 the requirement in the preceding sentence applies to annuity payments to be
3 made to the designated beneficiary after the expiration of the period
4 certain.

5 2. Unless the member's spouse is the sole designated beneficiary and
6 the form of distribution is a period certain and no life annuity, the period
7 certain for an annuity distribution commencing during the member's lifetime
8 may not exceed the applicable distribution period for the member under the
9 uniform lifetime table prescribed in section 1.401(a)(9)-9 of the regulations
10 issued by the United States secretary of the treasury for the calendar year
11 that contains the annuity starting date. If the annuity starting date
12 precedes the year in which the member reaches seventy years of age, the
13 applicable distribution period for the member is the distribution period for
14 seventy years of age under the uniform lifetime table set forth in section
15 1.401(a)(9)-9 of the regulations issued by the United States secretary of the
16 treasury plus the excess of seventy over the age of the member as of the
17 member's birthday in the year that contains the annuity starting date. If
18 the member's spouse is the member's sole designated beneficiary and the form
19 of distribution is a period certain and no life annuity, the period certain
20 may not exceed the longer of the member's applicable distribution period, as
21 determined under this paragraph, or the joint life and last survivor
22 expectancy of the member and the member's spouse as determined under the
23 joint and last survivor table prescribed in section 1.401(a)(9)-9 of the
24 regulations issued by the United States secretary of the treasury, using the
25 member's and spouse's attained ages as of the member's and spouse's birthdays
26 in the calendar year that contains the annuity starting date.

27 G. The following provisions govern minimum distributions if a member
28 dies before the date distributions begin:

29 1. Except as provided in subsection C, paragraph 6, if the member dies
30 before the date distribution of the member's interest begins and there is a
31 designated beneficiary, the member's entire interest shall be distributed,
32 beginning no later than the time prescribed in subsection C, paragraph 1 or
33 2, over the life of the designated beneficiary or over a period certain not
34 exceeding either of the following:

35 (a) Unless the annuity starting date is before the first distribution
36 calendar year, the life expectancy of the designated beneficiary determined
37 using the beneficiary's age as of the beneficiary's birthday in the calendar
38 year immediately following the calendar year of the member's death.

39 (b) If the annuity starting date is before the first distribution
40 calendar year, the life expectancy of the designated beneficiary determined
41 using the beneficiary's age as of the beneficiary's birthday in the calendar
42 year that contains the annuity starting date.

43 2. If the member dies before the date distributions begin and there is
44 no designated beneficiary as of September 30 of the year following the year
45 of the member's death, distribution of the member's entire interest shall be

1 completed by December 31 of the calendar year containing the fifth
2 anniversary of the member's death.

3 3. If the member dies before the date distribution of the member's
4 interest begins, the member's surviving spouse is the member's sole
5 designated beneficiary and the surviving spouse dies before distributions to
6 the surviving spouse begin, this subsection applies as if the surviving
7 spouse were the member, except that the time by which distributions must
8 begin shall be determined without regard to subsection C, paragraph 1.

9 H. For the purposes of this section:

10 1. "Designated beneficiary" means the individual who is designated as
11 the member's beneficiary to receive benefits under this article and is the
12 designated beneficiary under section 401(a)(9) of the internal revenue code
13 and question and answer number ~~4-1~~ of section ~~1.401(a)(9)-1~~ 1.401(a)(9)-4 of
14 the regulations issued by the United States secretary of the treasury.

15 2. "Distribution calendar year" means a calendar year for which a
16 minimum distribution is required. For distributions beginning before the
17 member's death, the first distribution calendar year is the calendar year
18 immediately preceding the calendar year that contains the member's required
19 beginning date. For distributions beginning after the member's death, the
20 first distribution calendar year is the calendar year in which distributions
21 are required to begin pursuant to subsection C.

22 3. "Life expectancy" means life expectancy as computed by use of the
23 single life table in section 1.401(a)(9)-9 of the regulations issued by the
24 United States secretary of the treasury.

25 4. "Required beginning date" means the date payment of a member's
26 benefits shall commence, which shall not be later than the April 1 following
27 the calendar year in which the member attains seventy and one-half years of
28 age or the calendar year in which the member terminates employment, whichever
29 occurs later.